



CITY OF LODI COUNCIL COMMUNICATION

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AGENDA TITLE: Adopt Resolution Amending the Policy and Fee for Fence and Landscape Maintenance in New Developments to Require Formation of a Lighting and Landscape District

MEETING DATE: December 17, 2003

PREPARED BY: Public Works Director

RECOMMENDED ACTION: That the City Council adopt a resolution amending the policy and fee for fence and landscape maintenance in new developments to require formation of a lighting and landscape district.

BACKGROUND INFORMATION: City policy relating to the maintenance of landscaping and reverse frontage walls has evolved in concert with changing street designs in residential areas. Initially, the policy required new developments to have a reverse frontage wall/fence at the back of the sidewalk and a 10-foot landscape easement for tree planting on the parcels behind the wall. The developer was responsible for the costs of the trees in the landscape easement and, if the wall were to be publicly maintained, was also required to pay a one-time lump sum fee of \$2.75 per linear foot for the maintenance of the wall. Maintenance of the trees in the landscape easement was the responsibility of the homeowner.

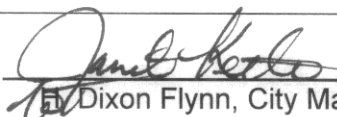
Later, the streetscape design behind the sidewalk evolved to include masonry walls with irrigated landscape areas. A more comprehensive policy and fee for the maintenance and replacement of these improvements was established. This current policy (Exhibit A) gives the developer the following three options for funding maintenance and replacement of fences, walls, landscaping and irrigation improvements:

1. Pay a one-time lump sum amount of \$49.00 per linear foot; or
2. Form a homeowners association; or
3. Form a 1972 Act Landscape and Lighting District

Recently, the City's maintenance obligations have expanded with the change in the design of residential streets to include parkways at the back of the curb to accommodate the planting of street trees. Reverse frontage wall and landscape design has not changed. The previous frontage-foot based one-time lump sum payment is no longer applicable if the City's costs for maintenance of the parkway trees are to be captured because there is no City-wide common relationship between the parkway tree maintenance cost and the frontage-foot length of the reverse frontage wall.

At its October 15, 2003, meeting, the City Council acted to form the Lodi Consolidated Landscape Maintenance Assessment District No. 1 (District), Zone 1 (Almondwood Estates) and, on January 21, 2004, is expected to annex Zone 2 (Century Meadows One, Units 2 and 3) to the District. The Engineer's Report appended to each formation action by the Council demonstrates the flexibility of the

APPROVED:


Dixon Flynn, City Manager

1972 Act Landscape and Lighting District Code to effectively address the shortfalls of a frontage-foot based one-time lump sum payment.

The proposed policy (Exhibit B) establishes a common City-wide method for the assessment and collection of funds for the maintenance and replacement of 1) walls, fences, landscaping and irrigation improvements located in the street right-of-way; 2) City-owned trees in parkways; and 3) a share of public park maintenance. The proposed policy would apply to all new subdivisions, even those without reverse frontage conditions. In such cases, the assessment would be limited to maintenance and replacement of City-owned trees in parkways and a share of public park maintenance. The proposed policy would apply to new subdivisions with private streets (i.e., Tienda Place Unit 2), but the assessment would be limited to a maintenance and replacement of a share of public park maintenance.

The proposed policy does not preclude a developer of a very large project with special features from setting up a special district (i.e., homeowners association) to assess and collect fees to pay for future maintenance and replacement costs of those special features. In such a case, the project would be required to annex to the District to cover maintenance of public improvements.

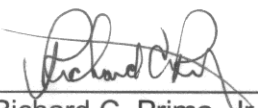
The proposed policy does allow for reverse frontage and landscape designs that exceed City standards. In the past, it was required to form a homeowners association. An example of this is the Sunwest residential development. The assessment proceeding through the Engineer's Report accounts for differing levels of maintenance effort on a project-by-project basis.

Sometimes a residential project will process a single tentative subdivision map but construct the subdivision in multiple phases. The 1972 Act allows and staff recommends a single annexation be required comprising the entire tentative map area. Such a requirement serves to minimize the long-term administrative costs.

Staff recommends approval of the amended policy because it achieves the following goals:

1. Establishes a common City-wide mechanism for long term funding of landscape areas within the City
2. Dilutes the administrative burden of operating the District by increasing the coverage
3. Maintains flexibility in the funding program and allows alternative and innovative future residential designs

FUNDING: Developer Funded



Richard C. Prima, Jr.
Public Works Director

RCP/FWS/pmf

Attachments

RESOLUTION NO. 99-147

A RESOLUTION OF THE LODI CITY COUNCIL
ESTABLISHING A POLICY AND FEE FOR FENCE AND
LANDSCAPE MAINTENANCE IN NEW DEVELOPMENTS

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BE IT RESOLVED, that the City Council of the City of Lodi does hereby establish a Policy on Funding of Maintenance and Replacement of Walls, Fences, Landscaping and Irrigation Improvements in Subdivisions with Reverse Frontage Lots as shown on Exhibit A attached hereto and made a part of this Resolution; and

BE IT FURTHER RESOLVED, that the City Council of the City of Lodi does hereby establish Fees for Funding of Maintenance and Replacement of Walls, Fences, Landscaping and Irrigation Improvements in Subdivisions with Reverse Frontage Lots as shown on Attachment A attached hereto and made a part of this Resolution effective Fiscal Year 1999/2000.

Dated: September 15, 1999

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I hereby certify that Resolution No. 99-147 was passed and adopted by the City Council of the City of Lodi in a regular meeting held September 15, 1999, by the following vote:

- AYES: COUNCIL MEMBERS – Mann, Nakanishi, Pennino and Land
(Mayor)
- NOES: COUNCIL MEMBERS – None
- ABSENT: COUNCIL MEMBERS – Hitchcock
- ABSTAIN: COUNCIL MEMBERS – None

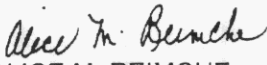

ALICE M. REIMCHE
City Clerk

EXHIBIT "A"

CITY OF LODI

POLICY ON FUNDING OF MAINTENANCE AND REPLACEMENT OF WALLS, FENCES, LANDSCAPING AND IRRIGATION IMPROVEMENTS IN SUBDIVISIONS WITH REVERSE FRONTAGE LOTS

The following policy shall provide options for the funding of on-going maintenance and replacement of walls, fences, landscaping and irrigation improvements located in the street right-of-way along major arterial roads and abutting reverse frontage lots in proposed subdivisions.

Before the City of Lodi approves a Final Subdivision Map, it must be assured that an appropriate funding mechanism is in place to cover the on-going costs of wall, fence, irrigation and other landscaping maintenance and operation. Owners/developers must choose one of the following options to provide the funding:

1. **One-time, Lump Sum Payment:** The owner/developer will be required, as a condition of Tentative Map or Final Map approval, to make a lump sum prepayment in an amount as shown on Attachment "A" for Fiscal Year 1999-2000, and updated and recalculated at the beginning of every fiscal year thereafter to ensure perpetual funding for future maintenance and replacement costs. A 30% Reserve Amount is included, which is updated annually, to cover extraordinary and unpredictable maintenance, replacement events or cost increases. Annual updates of the prepayment amount and Reserve Amount will be accomplished administratively by the Director of Public Works, and will be based on changes in costs for maintenance of fences, walls, landscaping and irrigation improvements. While the prepayment is a condition of the Final Map, it will be treated as a voluntary contribution in lieu of formation of a Homeowners Association, a Landscape and Lighting District or a Community Facilities District. The lump sum payment will be deposited in a special fund/account and invested in instruments in accordance with the City's investment policy. Interest earned on the investment will be used to assist in covering future maintenance and replacement costs.
2. **Homeowners Association:** The owner/developer will be required, as a condition of approval of the Tentative Map or Final Map, to form a Homeowners Association which will assess and collect fees from homeowners to pay for future maintenance costs. All fences, walls, landscaping and irrigation improvements abutting reverse frontage lots and streets will be required to be placed in private easements, not public right-of-way. The City will review and approve the Conditions, Covenants and Restrictions to ensure that the deeds reflect common ownership of the private easement(s) and that the City has the right to enter the private easement(s) to perform landscape services, with charges to the Homeowners Association in the event the landscaping improvements substantially deteriorate below City Standards. The City of Lodi is to be named as a third party beneficiary in the Conditions, Covenants and Restrictions.

3. **1972 Act Landscape and Lighting District:** The Tentative Map or Final Map will be conditioned with a requirement for the formation of a Landscape and Lighting District. Formation of such a district may be accomplished in one of two ways:

- a) Formation of a new district prior to the City approving a Tentative Map or Final Map. The City Council must adopt a Resolution of Intention to create a new landscape and lighting district and hold a public hearing at least 45 days after adopting the Resolution of Intention. All landowners in the district will be given a ballot to vote on forming a district. In order to minimize the delay in approving the Final Map, the owner/developer should obtain approval of the project's Engineer's Report for the creation of the district at the earliest opportunity. The Final Map cannot be approved until the City has received a positive vote for formation of the district and the public hearing for district formation has been held by the City Council.
- b) Submit funds for the perpetual maintenance of landscaping improvements pending formation of a new district.

The owner/developer must make a cash deposit with the City in the amount shown as the One-time, lump sum payment on Attachment A, which will be refunded upon the successful conclusion of district formation. This form of "bonding" will be included as a special condition in the subdivision improvement agreement. The "bond" will be placed in a non-interest bearing account. The Resolution of Intention for the public hearing will be approved concurrently with the Final Map.

Attachment A
One-Time Lump Sum Payment
For
FY 1999/2000
Effective through June 30, 2000

Item	Cost per LF
Annual Landscape Maintenance Cost	\$ 1.55
Lump Sum Wall Maintenance Cost	\$ 2.75
Lump Sum Payment Per Lineal Foot <i>Based on Present Worth for Maintenance over 30 years</i>	\$ 49.00

Notes:

1. Maintenance costs shown above are costs per linear foot and are based on a standard width of approximately 8.5 feet.
2. Maintenance costs shown above do not include costs for maintenance and replacement of lighting of landscaped areas or lettering and fascia of subdivision entryway monument markers and signs.
3. A 30% Reserve Fund is included for Extraordinary Maintenance and Replacement Costs.

EXHIBIT "A"

CITY OF LODI

POLICY ON FUNDING OF MAINTENANCE AND REPLACEMENT OF WALLS, FENCES, LANDSCAPING AND IRRIGATION IMPROVEMENTS IN SUBDIVISIONS WITH REVERSE FRONTAGE LOTS AND MAINTENANCE OF CITY-OWNED TREES IN PARKWAYS OF SUBDIVISIONS AND MAINTENANCE OF PRORATED SHARE OF PUBLIC PARK IMPROVEMENTS.

The following policy shall replace the policy established by the City Council on September 15, 1999 by Resolution No. 99-147.

The following policy shall establish the funding of on-going maintenance and replacement of walls, fences, landscaping and irrigation improvements located in the street right-of-way along major arterial and collector roads abutting reverse frontage lots in proposed subdivisions. In addition, the policy establishes the funding of on-going maintenance and replacement of City-owned trees in parkways of proposed subdivisions and maintenance of a prorated share of public park improvements.

Before the City of Lodi approves a Final Subdivision Map, it must be assured that an appropriate funding mechanism is in place to cover the on-going costs of maintaining and operating public improvements including but not limited to wall, fence, irrigation and other landscaping maintenance and operation along major arterial and collector roads abutting reverse frontage lots. In addition, funding must be assured for the on-going maintenance and replacement of City-owned trees in parkways of proposed subdivisions and maintenance of a prorated share of public park improvements. Developers must choose the following to provide the funding:

1. 1972 Act Landscape and Lighting District: The Tentative Map or Final Map will be conditioned with a requirement for the formation of a Maintenance Assessment District. The district will include funding of on-going maintenance, operation, and replacement of walls, fences, landscaping and irrigation improvements located in the street right-of-way along frontage lots. The district will be required to annex to the Lodi Consolidated Landscape Maintenance Assessment District No. 2003-1. Formation costs will be paid by the developer. Formation of such a district may be accomplished in one of two ways:
 - a) Formation of a new district prior to the City approval of the Final Map. The City Council must adopt a Resolution of Intention to create a new landscape and lighting district and hold a public hearing at least 45 days after adopting the Resolution of Intention. All landowners in the district will be given a ballot to vote on forming a district. The public hearing for district formation and final vote count is required before formation of the district is complete.
 - b) Formation of a new district following the City approval of the Final Map. The City Council must adopt a Resolution of Intention to Order the Formation of a Maintenance Assessment District and Preliminarily Approve the Engineer's Report concurrent with or prior to approval of a Final Map. The owner/developer shall make a cash deposit with the City in the amount equal to 150 percent of the cost of the professional services required to implement formation of the assessment district. Formation of the district or zone must be complete prior to the City Council acceptance of the subdivision improvements.

RESOLUTION NO. 2003-250

A RESOLUTION OF THE LODI CITY COUNCIL AMENDING
THE POLICY AND FEE FOR FENCE AND LANDSCAPE
MAINTENANCE IN NEW DEVELOPMENTS TO REQUIRE
FORMATION OF A LIGHTING AND LANDSCAPE DISTRICT
OR A HOMEOWNERS' ASSOCIATION

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NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby amend the policy and fee for fence and landscape maintenance in new developments to require formation of a lighting and landscape district or a homeowners' association, as shown on Exhibit A attached hereto and made a part of this Resolution, thereby rescinding Resolution No. 99-147, adopted September 15, 1999.

Dated: December 17, 2003

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I hereby certify that Resolution No. 2003-250 was passed and adopted by the Lodi City Council in a regular meeting held December 17, 2003, by the following vote:

AYES: COUNCIL MEMBERS – Beckman, Hitchcock, and Mayor Hansen
NOES: COUNCIL MEMBERS – Howard and Land
ABSENT: COUNCIL MEMBERS – None
ABSTAIN: COUNCIL MEMBERS – None



SUSAN J. BLACKSTON
City Clerk

EXHIBIT "A"

CITY OF LODI

POLICY ON FUNDING OF MAINTENANCE AND REPLACEMENT OF WALLS, FENCES, LANDSCAPING AND IRRIGATION IMPROVEMENTS IN SUBDIVISIONS WITH REVERSE FRONTAGE LOTS AND MAINTENANCE OF CITY-OWNED TREES IN PARKWAYS OF SUBDIVISIONS AND MAINTENANCE OF PRORATED SHARE OF PUBLIC PARK IMPROVEMENTS.

The following policy shall replace the policy established by the City Council on September 15, 1999 by Resolution No. 99-147.

The following policy shall establish the funding of on-going maintenance and replacement of walls, fences, landscaping and irrigation improvements located in the street right-of-way along roads abutting reverse frontage lots in proposed subdivisions. In addition, the policy establishes the funding of on-going maintenance and replacement of City-owned trees in parkways of proposed subdivisions and maintenance of a prorated share of public park improvements.

Before the City of Lodi approves a Final Subdivision Map, it must be assured that an appropriate funding mechanism is in place to cover the on-going costs of maintaining and operating public improvements including but not limited to wall, fence, irrigation and other landscaping maintenance and operation along major arterial and collector roads abutting reverse frontage lots. In addition, funding must be assured for the on-going maintenance and replacement of City-owned trees in parkways of proposed subdivisions and maintenance of a prorated share of public park improvements. Developers must use one or both of the following to provide the funding:

1. 1972 Act Landscape and Lighting District: The Tentative Map or Final Map will be conditioned with a requirement for the formation of a Maintenance Assessment District. The district will include funding of on-going maintenance, operation, and replacement of walls, fences, landscaping and irrigation improvements located in the street right-of-way along frontage lots. The district will be required to annex to the Lodi Consolidated Landscape Maintenance Assessment District No. 2003-1. Formation costs will be paid by the developer. Formation of such a district may be accomplished in one of two ways:
 - a) Formation of a new district prior to the City approval of the Final Map. The City Council must adopt a Resolution of Intention to create a new landscape and lighting district and hold a public hearing at least 45 days after adopting the Resolution of Intention. All landowners in the district will be given a ballot to vote on forming a district. The public hearing for district formation and final vote count is required before formation of the district is complete
 - b) Formation of a new district following the City approval of the Final Map. The City Council must adopt a Resolution of Intention to Order the Formation of a Maintenance Assessment District and Preliminarily Approve the Engineer's Report concurrent with or prior to approval of a Final Map. The owner/developer shall make a cash deposit with the City in the amount equal to 150 percent of the cost of the professional services required to implement formation of the assessment district. Formation of the district or zone must be complete prior to the City Council acceptance of the subdivision improvements.

2. Homeowners Association: The owner/developer will be conditioned with a requirement for the formation of a Homeowners Association which will assess and collect fees from homeowners to pay for on-going maintenance, operation, and replacement of walls, fences, landscaping and irrigation improvements located in the street right-of-way and abutting reverse frontage lots (either within street right-of-way or within private easements). The requirement will be implemented by Agreement prior to final map filing. In addition, the Homeowners Association will assess and collect fees from homeowners to pay for maintenance of City-owned trees in parkways and a prorated share of public park improvements. The amount to be assessed for these City-provided services will be provided by the City to the Homeowners Association by June 30 each year. Payment to the City will be submitted 50 percent on or before December 10 and the balance on or before April 10. The City will review and approve the Conditions, Covenants and Restrictions to ensure the deeds reflect common ownership of the private easement(s) and that the City has the right to enter the private easement(s) to perform landscape services, in the event the landscaping improvements substantially deteriorate below City Standards. Costs incurred by the City to bring areas up to City standards will be billed and paid by the Homeowners Association to the City. The City of Lodi is to be named as a third party beneficiary in the Conditions, Covenants and Restrictions only for the purposes of allowing the City to correct substandard landscaping.